

*Tariff Schedule of the United States (HTSUS)* under item numbers:

7304.20.10.00, 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.00, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.00, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.00, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.10, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.50, 7304.20.50.60, 7304.20.50.75, 7304.20.60.10, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.50, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

*Period of Investigation*

The period of investigation (POI) is January 1, 1994, to June 30, 1994.

*Applicable Statute and Regulations*

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

*Best Information Available*

We have determined, in accordance with section 776(c) of the Act (19 U.S.C. 1677e(c)), that the use of best information available (BIA) is appropriate for sales of the subject merchandise in this investigation. In deciding whether to use BIA, section 776(c) provides that the Department shall use BIA when a respondent refuses to produce information requested in a timely manner and in the form required. In this case, Dalmine and Arvedi chose not to participate in this investigation, and General Sider did not respond to our requests for information.

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department

normally assigns lower margins to those respondents who cooperate in an investigation, and margins based on more adverse assumptions for those respondents who do not cooperate in an investigation. If the Department deems a respondent to be non-cooperative, that respondent's preliminary margin for the relevant class or kind of merchandise is the higher of either (1) The highest margin in the petition, or (2) the highest calculated margin of any respondent (see, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany: Final Determination of Sales at Less Than Fair Value (54 FR 18992, 19033, May 3, 1989)). The Department's two-tier methodology for assigning BIA based on the degree of respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (See Allied-Signal Aerospace Co. v. the United States, Slip Op. 93-1049 (Fed Cir. June 22, 1993); see also Krupp Stahl AG. et al v. the United States, Slip Op. 93-84 (CIT May 26, 1993).)

In the present case, the mandatory respondents have refused to cooperate with the Department's investigation. Therefore, in accordance with our standard practice, the Department has assigned the highest margin in the petition to all respondents.

*Suspension of Liquidation*

In accordance with section 733(d)(1) (19 U.S.C. 1673b(d)(1)) of the Act, we are directing the Customs Service to suspend liquidation of all entries of OCTG from Italy, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin, as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percent
Dalmine S.p.A. ....	49.78
Acciaierie Tubificio Arvedi S.p.A. ....	49.78
General Sider Europa S.p.A. ....	49.78
All others .....	49.78

*ITC Notification*

In accordance with section 733(f) (19 U.S.C. 1673b(f)) of the Act, we have notified the ITC of our preliminary determination.

*Public Comment*

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration by no later than March 1, 1995, and rebuttal briefs by no later than March 8, 1995. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to give interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on March 10, 1995, at 10:00 a.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone, the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, within ten days of the publication of this notice in the **Federal Register**. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This notice is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.15(a)(4).

Dated: January 26, 1995.

**Susan G. Esserman,**

*Assistant Secretary for Import Administration.*

[FR Doc. 95-2617 Filed 2-1-95; 8:45 am]

BILLING CODE 3510-DS-P

[A-469-806]

**Preliminary Determination of Sales at Not Less Than Fair Value: Antidumping Duty Investigation of Oil Country Tubular Goods From Spain**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** February 2, 1995.

**FOR FURTHER INFORMATION CONTACT:** William Crow or Lisa Girardi, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-0116, or (202) 482-4105.

**Preliminary Determination:**

The Department preliminarily determines that oil country tubular

goods (OCTG) from Spain are not being sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). We have calculated a preliminary margin of zero percent for Spanish OCTG sold in the United States during the period of investigation.

#### *Case History*

Since the initiation of this investigation on July 27, 1994, (59 FR 37962, July 20, 1994), the following events have occurred.

On August 15, 1994, the U.S. International Trade Commission (ITC) issued an affirmative preliminary injury determination in this proceeding (see ITC Investigation No. 731-TA-717).

On August 26, 1994, the Department of Commerce (the Department) issued an antidumping questionnaire to Tubos Reunidos S.A. (TR), and an antidumping survey to Tubacex S.A. On September 9, 1994, we received a letter from Tubacex S.A. stating that it did not sell the subject merchandise to the United States during the period of investigation. On September 27, 1994, the Department selected TR as the sole mandatory respondent in the investigation. TR accounts for at least 60 percent of exports of OCTG from Spain during the period of investigation. TR submitted responses to our questionnaire in September and October 1994, and responses to our deficiency questionnaires in November and December 1994.

On November 10, 1994, Koppel Steel Corporation, U.S. Steel Group (a unit of USX Corporation) and USS/Kobe Steel Company, (the petitioners) timely requested that the Department postpone the preliminary determination in accordance with section 733(c)(1) of the Act (19 CFR 353.15(c)(1994)). We did so on November 15, 1994 (59 FR 60130, November 22, 1994).

On November 2, 1994, the petitioners alleged that TR was selling the subject merchandise in third country markets at below its cost of production. On January 5, 1995, the Department determined that TR's home market was not viable within the meaning of section 773(a)(1)(b) of the Act and 19 CFR 353.48. On January 5, 1995, the Department selected India as the third country market for this investigation (see January 5, 1995, memorandum from David L. Binder to Gary Taverman). After analyzing the petitioners' allegation, we found reasonable grounds to believe or suspect that sales in India were being made at less than the cost of production. Consequently, on January 9, 1995, the Department initiated an investigation of sales below cost for TR's sales to India,

in accordance with section 773(b) of the Act and 19 CFR 353.51. On January 11, 1995, we issued Section D of the antidumping questionnaire concerning cost of production to TR.

On January 26, 1995, in accordance with 19 CFR 353.20(b), respondent requested that, in the event of an affirmative preliminary determination by the Department, the Department postpone the final determination. However, because this preliminary determination is negative, the criteria for a postponement of the final determination under 19 CFR 353.20(b)(1) have not been met. Accordingly, the final determination has not been postponed.

#### *Scope of Investigation*

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the *Harmonized Tariff Schedule of the United States* (HTS) under item numbers:

7304.20.10.00, 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.00, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.00, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.00, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.10, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.50, 7304.20.50.60, 7304.20.50.75, 7304.20.60.10, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.50, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.00.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00,

7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

#### *Period of Investigation*

The period of investigation (POI) is January 1, 1994, through June 30, 1994.

#### *Applicable Statute and Regulations*

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

#### *Such or Similar Comparisons*

We have determined for purposes of the preliminary determination that the OCTG covered by this investigation comprises a single category of "such or similar" merchandise within the meaning of section 771(b) of the Act.

The respondent reported sales of both identical merchandise and similar merchandise in India during the POI. Where there were sales of similar merchandise in the third country market to compare to U.S. sales, we made comparisons on the basis of the characteristics listed in Appendix V of the Department's questionnaire. However, we modified the matching hierarchy in Appendix V so that sales of Indian casing would first be matched to sales of U.S. casing. Thus we made similar merchandise comparisons on the basis of: (1) Whether OCTG is casing or tubing; (2) whether OCTG is seamless or welded; (3) the grade of OCTG; (4) end-finish (5) outside diameter, (6) OCTG length (7) full-body normalization and (8) wall thickness. TR had incorrectly reported multiple costs instead of one POI cost for unique products. After weight-averaging the multiple costs reported for unique products to derive single POI costs specific to each product model, the Department used TR's reported costs to adjust for physical differences in merchandise.

#### *Fair Value Comparisons*

To determine whether sales of OCTG from Spain to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice. When comparing the U.S. sales to sales of similar merchandise in the third country market, we made adjustments for differences in physical characteristics, pursuant to 19 CFR 353.57.

### United States Price

We based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to an unrelated purchaser before importation into the United States and because exporter's sales price methodology was not otherwise indicated.

We calculated USP on the basis of packed, CIF duty paid prices to unrelated customers. In accordance with section 772(d)(2)(A) of the Act, we made deductions from U.S. price, where appropriate, for foreign brokerage, foreign inland freight, ocean freight, marine insurance, U.S. duty, and U.S. brokerage and handling.

In order to calculate imputed credit on U.S. sales where the date of payment was not reported, we used the date of this preliminary determination as the date of payment. Where the respondent did not properly account for the quantities shipped on different invoices for a purchase order, we recalculated credit by weight-averaging the credit expenses for each invoice by the respective quantities shipped for each invoice to determine one weighted-average credit expense for the purchase order.

### Foreign Market Value

Because there were no sales of the subject merchandise in the home market during the POI, we found that the home market was not viable, in accordance with 19 CFR 353.48(a). India was selected as the most appropriate third country on which to base FMV because: (1) The merchandise exported to India is most similar or identical to the merchandise exported to the United States; (2) the volume of sales during the POI was the second largest of any third country; and (3) TR's sales to India were to an OCTG market whose organization and development were similar to that of the U.S. market, based on our analysis of the sales and distribution process for those sales. (see January 5, 1995, memorandum from David L. Binder to Gary Taverman).

We excluded from our analysis those sales in the third country market database with negative quantities or negative sales prices.

We calculated FMV based on C&F and CIF prices to processor-distributors and trading companies in India.

In light of the Court of Appeals for the Federal Circuit's (CAFC) decision in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States*, 13 F.3d 398 (Fed. Cir. 1994), the Department can no longer deduct third country market movement

charges from FMV pursuant to its inherent power to fill gaps in the antidumping statute. Instead, we will adjust for those expenses under the circumstance-of-sale provision of 19 CFR 353.56(a), as appropriate.

Accordingly, in the present case, we deducted from FMV the following direct selling expenses pursuant to 19 CFR 353.56(a): post-sale third-country inland freight and insurance, ocean freight, and marine insurance expenses.

We deducted third-country packing costs and added U.S. packing costs in accordance with section 773(a)(1) of the Act. We also made circumstance-of-sale adjustments for a third-country direct selling expense, imputed credit, in accordance with 19 CFR 353.56(a)(2). In order to calculate imputed credit on sales to India where the date of payment was not reported, we used the date of this preliminary determination as the date of payment. Where the respondent did not properly account for the quantities shipped on different invoices for a purchase order, we recalculated credit by weight-averaging the credit expenses for each invoice by the respective quantities shipped for each invoice to determine one weighted-average credit expense for the purchase order.

### Cost of Production (COP)

As stated above, the petitioners made a sales-below-cost allegation on November 2, 1994. The Department initiated a sales-below-cost investigation on January 9, 1995, and issued its section D questionnaire on January 11, 1995. The section D response is due on February 1, 1995, and thus a COP analysis cannot be undertaken for purposes of the preliminary determination. We will undertake such an analysis for purposes of the final determination.

### Currency Conversion

We have made currency conversions based on the official exchange rates, certified by the Federal Reserve Bank of New York, in effect on the dates of the U.S. sales.

### Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

### Preliminary Margin Calculation

Based on the calculation methodology outlined above, we preliminarily calculated the following margins:

Producer/manufacturer/exporter	Margin percentage
Tubos Reunidos S.A. ....	00.00
All others .....	00.00

### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary determination.

If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

### Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies may be submitted by any interested party to the Assistant Secretary for Import Administration no later than March 7, 1995, and rebuttal briefs no later than March 14, 1995. We request that parties in this case provide an executive summary of no more than two pages in conjunction with case briefs on the major issues to be addressed. Further, briefs should contain a table of authorities. Citations to Commerce determinations and court decisions should include the page number where cited information appears. In preparing the briefs, please begin each issue on a separate page. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to give interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on March 21, 1995, at 1 p.m. at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, within ten days of the publication of this notice in the **Federal Register**. Requests should contain: (1) The party's name, address, telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to the issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.15(a)(4).

Dated: January 26, 1995.

**Susan G. Esserman,**

*Assistant Secretary for Import Administration.*

[FR Doc. 95-2618 Filed 2-1-95; 8:45 am]

BILLING CODE 3510-DS-P

[A-588-604]

**Final Affirmative Determination in Scope Inquiry on Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof From Japan**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final determination of scope inquiry.

**SUMMARY:** We determine that tower forgings, hot forgings, and cold forgings are within the scope of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, from Japan.

**EFFECTIVE DATE:** February 2, 1995.

**FOR FURTHER INFORMATION CONTACT:** Maureen Shields at (202) 482-1690 or John Kugelman at (202) 482-5253, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 17, 1993, Koyo Seiko Company Ltd. and Koyo Corporation of U.S.A. (Koyo) requested that the Department of Commerce (the Department) issue a ruling that rough forgings, including tower forgings, hot forgings, and cold forgings, be found outside the scope of the antidumping duty order on tapered roller bearings and parts thereof from Japan (52 FR 37352, October 6, 1987). The forgings at issue are formed from bearing grade steel bar, which is sheared, pierced and, through either a hot or a cold process, extruded into the approximate shape of a TRB cup or cone, or, in the case of tower forgings, both a cup and a cone or an inner and an outer raceway. The forgings are not machined in any way prior to exportation. The Department initiated its scope inquiry on September 28, 1993, and granted interested parties an opportunity to comment on whether these forgings fall within the scope of the order. We received comments from the petitioner, the Timken Company, and rebuttal comments from Koyo.

Due to the significant difficulty presented by this scope inquiry, we

published a preliminary determination (59 FR 9471, February 28, 1994) in accordance with the Department's regulations (19 CFR 353.29(d)(3) (1993)). We preliminarily determined that Koyo's forgings constitute unfinished parts that are within the scope of the order. We received comments and rebuttal comments on the preliminary determination from Timken and from Koyo, and we held a public hearing on March 24, 1994. In order to ensure a more thorough understanding of the materials and processes used in the production of TRBs, the Department accepted invitations to tour the U.S. manufacturing facilities of American Koyo Bearing Manufacturing Company (AKBMC) and the Timken Company (Timken). We toured AKBMC's plant in Orangeburg, South Carolina, on April 21, 1994, and two Timken plants in Canton, Ohio, on April 22, 1994.

In accordance with 19 CFR 353.29(i)(1), in analyzing the scope request in this proceeding, the Department considered the descriptions of the merchandise contained in the petition, the initial less-than-fair-value (LTFV) investigation, and the determinations of the Department and the International Trade Commission (ITC). The regulations provide that if the Department determines that these descriptions are not dispositive, it will further consider the factors provided for under 19 CFR 353.29(i)(2), known commonly as *Diversified Products* criteria (see *Diversified Products Corp. v. United States*, 572 F. Supp. 883 (CIT 1983)).

Timken contends that the petition and the record of the investigation unambiguously include Koyo's forgings in the definition of unfinished parts, and that the Department's analysis of the *Diversified Products* criteria in the preliminary determination was therefore unnecessary. However, Timken claims that an analysis of these criteria further supports its position that Koyo's forgings are within the scope of the order.

Koyo claims that the Department's preliminary affirmative determination contradicts previous scope determinations as well as the Department's acceptance in prior administrative reviews of Koyo's statements that the forgings in question are outside the scope of the order. Koyo has stated during administrative reviews that it imports forgings but has not reported them, since it considers them outside the scope of the order. The Department never challenged these statements.

In this final determination we find that the forgings at issue are "unfinished

parts," and are thus within the scope of the order. Because the descriptions in the petition, the LTFV investigation, and the determinations of the Department and the ITC are not dispositive, analysis of the *Diversified Products* criteria is necessary. In determining if forgings are within the order, the Department considered the factors set forth at 19 CFR 353.29(i)(2): (1) the physical characteristics of the product; (2) the expectations of the ultimate purchasers; (3) the ultimate use of the product; and (4) the channels of trade. These criteria indicate that the forgings in question are within the scope of the order because of their size and advanced shape, because they travel through the same channels of trade as other unfinished parts, and because it is highly unlikely that they will be used in anything other than a TRB. We have addressed comments from the parties on each of these issues in our analysis below.

**Analysis**

*1. The Language of the Petition*

The original petition describes the subject merchandise as follows:

The merchandise covered by this petition is all tapered roller bearings, tapered rollers and other parts thereof (both finished and unfinished) including, but not limited to, single-row, multiple-row (e.g., two-, four-), and thrust bearings and self-contained bearing packages (generally pre-set, pre-sealed, and pre-greased), but only to the extent that such merchandise is not presently covered by an outstanding antidumping duty order or finding in the United States. Timken notes that the language of the petition is inclusive rather than exclusionary, requesting protection for *all* unfinished parts not covered by an existing order.

Timken argues that the behavior of the parties during the LTFV investigation reflects a belief that forgings were included in the petition. Referring to a statement by one of the respondents that the inclusion of "forgings and other unfinished components" would cause it competitive harm, Timken claims that this argument would be made only if the parties believed that forgings were included in the petition. While Koyo agrees that the petition is clearly intended to include all unfinished parts, it notes that the petition makes no attempt to define an unfinished part.

*The Department's Position*

While the petition clearly asks for coverage of all unfinished parts, it is unclear what articles should be considered unfinished parts. Although Timken may have intended the term unfinished parts to include the kind of imports Koyo describes as rough